

# HOUSE BILL No. 5721

June 2, 2016, Introduced by Reps. Dianda, Irwin, Geiss, Pagan, Byrd, Neeley, Robinson, Yanez, Sarah Roberts, Cochran, Banks, Liberati, Wittenberg, Plawecki, Hoadley, Brunner, Smiley, Talabi, Chang, Phelps, Brinks, Schor, Faris, Greig, Lane, Rutledge, Chirkun, Greimel, Driskell, Zemke, Hovey-Wright, Moss, Singh, Durhal, LaVoy, Townsend and Gay-Dagnogo and referred to the Committee on Commerce and Trade.

A bill to amend 1936 (Ex Sess) PA 1, entitled  
"Michigan employment security act,"  
by amending section 27 (MCL 421.27), as amended by 2012 PA 496.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 27. (a)(1) When a determination, redetermination, or  
2       decision is made that benefits are due an unemployed individual,  
3       the benefits shall become payable from the fund and continue to be  
4       payable to the unemployed individual, subject to the limitations  
5       imposed by the individual's monetary entitlement, if the individual  
6       continues to be unemployed and to file claims for benefits, until  
7       the determination, redetermination, or decision is reversed, a  
8       determination, redetermination, or decision on a new issue holding  
9       the individual disqualified or ineligible is made, or, for benefit  
10      years beginning before October 1, 2000, a new separation issue  
11      arises resulting from subsequent work.

1 (2) Benefits shall be paid in person or by mail through  
2 ~~Employment~~**EMPLOYMENT** offices in accordance with rules promulgated  
3 by the ~~commission~~**UNEMPLOYMENT AGENCY**.

4 (b)(1) Subject to subsection (f), the weekly benefit rate for  
5 an individual, with respect to benefit years beginning before  
6 October 1, 2000, shall be 67% of the individual's average after tax  
7 weekly wage, except that the individual's maximum weekly benefit  
8 rate shall not exceed \$300.00. However, with respect to benefit  
9 years beginning on or after October 1, 2000, the individual's  
10 weekly benefit rate is 4.1% of the individual's wages paid in the  
11 calendar quarter of the base period in which the individual was  
12 paid the highest total wages, plus \$6.00 for each dependent as  
13 defined in subdivision (4), up to a maximum of 5 dependents,  
14 claimed by the individual at the time the individual files a new  
15 claim for benefits, except that the individual's maximum weekly  
16 benefit rate shall not exceed \$300.00 before April 26, 2002 and  
17 \$362.00 for claims filed on and after April 26, 2002. The weekly  
18 benefit rate for an individual claiming benefits on and after April  
19 26, 2002 shall be recalculated subject to the \$362.00 maximum  
20 weekly benefit rate. The unemployment agency shall establish the  
21 procedures necessary to verify the number of dependents claimed. If  
22 a person fraudulently claims a dependent, that person is subject to  
23 the penalties set forth in sections 54 and 54c. For benefit years  
24 beginning on or after October 2, 1983, the weekly benefit rate  
25 shall be adjusted to the next lower multiple of \$1.00.

26 (2) For benefit years beginning before October 1, 2000, the  
27 state average weekly wage for a calendar year shall be computed on

1 the basis of the 12 months ending the June 30 immediately before  
2 that calendar year. The ~~commission~~**UNEMPLOYMENT AGENCY** shall  
3 prepare a table of weekly benefit rates based on an "average after  
4 tax weekly wage" calculated by subtracting, from an individual's  
5 average weekly wage as determined in accordance with section 51, a  
6 reasonable approximation of the weekly amount required to be  
7 withheld by the employer from the remuneration of the individual  
8 based on dependents and exemptions for income taxes under 26 USC  
9 3401 to 3406, and under **FORMER** section 351 of the income tax act of  
10 1967, 1967 PA 281, MCL 206.351, and for old age and survivor's  
11 disability insurance taxes under the federal insurance  
12 contributions act, 26 USC 3101 to 3128. For purposes of applying  
13 the table to an individual's claim, a dependent shall be as defined  
14 in subdivision (3). The table applicable to an individual's claim  
15 shall be the table reflecting the number of dependents claimed by  
16 the individual under subdivision (3). The commission shall adjust  
17 the tables based on changes in withholding schedules published by  
18 the United States ~~department of treasury, internal revenue service,~~  
19 **DEPARTMENT OF TREASURY, INTERNAL REVENUE SERVICE**, and by the  
20 department of treasury. The number of dependents allowed shall be  
21 determined with respect to each week of unemployment for which an  
22 individual is claiming benefits.

23 (3) For benefit years beginning before October 1, 2000, a  
24 dependent means any of the following persons who ~~are receiving~~  
25 **RECEIVED** and for at least 90 consecutive days immediately before  
26 the week for which benefits are claimed, or, in the case of a  
27 dependent husband, wife, or child, for the duration of the marital

1 or parental relationship, if the relationship has existed less than  
2 90 days, has received more than 1/2 the cost of his or her support  
3 from the individual claiming benefits:

4 (a) A child, including stepchild, adopted child, or grandchild  
5 of the individual who is under 18 years of age, or 18 years of age  
6 or over if, because of physical or mental infirmity, the child is  
7 unable to engage in a gainful occupation, or is a full-time student  
8 as defined by the particular educational institution, at a high  
9 school, vocational school, community or junior college, or college  
10 or university and has not attained the age of 22.

11 (b) The husband or wife of the individual.

12 (c) The legal father or mother of the individual if that  
13 parent is either more than 65 years of age or is permanently  
14 disabled from engaging in a gainful occupation.

15 (d) A brother or sister of the individual if the brother or  
16 sister is orphaned or the living parents are dependent parents of  
17 ~~an~~**THE** individual, and the brother or sister is under 18 years of  
18 age, or 18 years of age or over if, because of physical or mental  
19 infirmity, the brother or sister is unable to engage in a gainful  
20 occupation, or is a full-time student as defined by the particular  
21 educational institution, at a high school, vocational school,  
22 community or junior college, or college or university and is less  
23 than 22 years of age.

24 (4) For benefit years beginning on or after October 1, 2000, a  
25 dependent means any of the following persons who received for at  
26 least 90 consecutive days immediately before the first week of the  
27 benefit year or, in the case of a dependent husband, wife, or

1 child, for the duration of the marital or parental relationship if  
2 the relationship existed less than 90 days before the beginning of  
3 the benefit year, has received more than 1/2 the cost of his or her  
4 support from the individual claiming the benefits:

5 (a) A child, including stepchild, adopted child, or grandchild  
6 of the individual who is under 18 years of age, or 18 years of age  
7 and over if, because of physical or mental infirmity, the child is  
8 unable to engage in a gainful occupation, or is a full-time student  
9 as defined by the particular educational institution, at a high  
10 school, vocational school, community or junior college, or college  
11 or university and has not attained the age of 22.

12 (b) The husband or wife of the individual.

13 (c) The legal father or mother of the individual if that  
14 parent is either more than 65 years of age or is permanently  
15 disabled from engaging in a gainful occupation.

16 (d) A brother or sister of the individual if the brother or  
17 sister is orphaned or the living parents are dependent parents of  
18 ~~an~~ **THE** individual, and the brother or sister is under 18 years of  
19 age, or 18 years of age and over if, because of physical or mental  
20 infirmity, the brother or sister is unable to engage in a gainful  
21 occupation, or is a full-time student as defined by the particular  
22 educational institution, at a high school, vocational school,  
23 community or junior college, or college or university and is less  
24 than 22 years of age.

25 ~~(5) For benefit years beginning before October 1, 2000,~~  
26 ~~dependency status of a dependent, child or otherwise, once~~  
27 ~~established or fixed in favor of an individual continues during the~~

1 ~~individual's benefit year until terminated. Dependency status of a~~  
2 ~~dependent terminates at the end of the week in which the dependent~~  
3 ~~ceases to be an individual described in subdivision (3)(a), (b),~~  
4 ~~(c), or (d) because of age, death, or divorce. For benefit years~~  
5 ~~beginning on or after October 1, 2000, the number of dependents~~  
6 ~~established for an individual at the beginning of the benefit year~~  
7 ~~shall remain in effect during the entire benefit year.~~

8 ~~(6) For benefit years beginning before October 1, 2000,~~  
9 ~~failure on the part of an individual, due to misinformation or lack~~  
10 ~~of information, to furnish all information material for~~  
11 ~~determination of the number of the individual's dependents when the~~  
12 ~~individual files a claim for benefits with respect to a week is~~  
13 ~~good cause to issue a redetermination as to the amount of benefits~~  
14 ~~based on the number of the individual's dependents as of the~~  
15 ~~beginning date of that week. Dependency status of a dependent,~~  
16 ~~child or otherwise, once established or fixed in favor of a person~~  
17 ~~is not transferable to or usable by another person with respect to~~  
18 ~~the same week.~~

19 For benefit years beginning on or after October 1, 2000,  
20 failure on the part of an individual, due to misinformation or lack  
21 of information, to furnish all information material for  
22 determination of the number of the individual's dependents is good  
23 cause to issue a redetermination as to the amount of benefits based  
24 on the number of the individual's dependents as of the beginning of  
25 the benefit year.

26 (c) Subject to subsection (f), all of the following apply to  
27 eligible individuals:

1           (1) Each eligible individual shall be paid a weekly benefit  
2 rate with respect to the week for which the individual earns or  
3 receives no remuneration. Notwithstanding the definition of week in  
4 section 50, if within 2 consecutive weeks in which an individual  
5 was not unemployed within the meaning of section 48 there was a  
6 period of 7 or more consecutive days for which the individual did  
7 not earn or receive remuneration, that period shall be considered a  
8 week for benefit purposes under this act if a claim for benefits  
9 for that period is filed not later than 30 days after the end of  
10 the period.

11           (2) Each eligible individual shall have his or her weekly  
12 benefit rate reduced with respect to each week in which the  
13 individual earns or receives remuneration at the rate of 40 cents  
14 for each whole \$1.00 of remuneration earned or received during that  
15 week. Beginning October 1, 2015, an eligible individual's weekly  
16 benefit rate shall be reduced at the rate of 50 cents for each  
17 whole \$1.00 of remuneration in which the eligible individual earns  
18 or receives remuneration in that benefit week. The weekly benefit  
19 rate shall not be reduced under this subdivision for remuneration  
20 received for on-call or training services as a volunteer  
21 firefighter, if the volunteer firefighter receives less than  
22 \$10,000.00 in a calendar year for services as a volunteer  
23 firefighter.

24           (3) An individual who receives or earns partial remuneration  
25 may not receive a total of benefits and earnings that exceeds 1-3/5  
26 times his or her weekly benefit amount. For each dollar of total  
27 benefits and earnings that exceeds 1-3/5 times the individual's

1 weekly benefit amount, benefits shall be reduced by \$1.00.  
2 Beginning October 1, 2015, the total benefits and earnings for an  
3 individual who receives or earns partial remuneration shall not  
4 exceed 1-1/2 times his or her weekly benefit amount. The  
5 individual's benefits shall be reduced by \$1.00 for each dollar by  
6 which the total benefits and earnings exceed 1-1/2 times the  
7 individual's weekly benefit amount.

8 (4) If the reduction in a claimant's benefit rate for a week  
9 in accordance with subdivision (2) or (3) results in a benefit rate  
10 greater than zero for that week, the claimant's balance of weeks of  
11 benefit payments shall be reduced by 1 week.

12 (5) All remuneration for work performed during a shift that  
13 terminates on 1 day but that began on the preceding day shall be  
14 considered to have been earned by the eligible individual on the  
15 preceding day.

16 (6) The unemployment agency shall report annually to the  
17 legislature the following information with regard to subdivisions  
18 (2) and (3):

19 (a) The number of individuals whose weekly benefit rate was  
20 reduced at the rate of 40 or 50 cents for each whole \$1.00 of  
21 remuneration earned or received over the immediately preceding  
22 calendar year.

23 (b) The number of individuals who received or earned partial  
24 remuneration at or exceeding the applicable limit of 1-1/2 or 1-3/5  
25 times their weekly benefit amount prescribed in subdivision (3) for  
26 any 1 or more weeks during the immediately preceding calendar year.

27 ~~(d) For benefit years beginning before October 1, 2000, and~~



1 ~~subject to subsection (f) and this subsection, the amount of~~  
2 ~~benefits to which an individual who is otherwise eligible is~~  
3 ~~entitled during a benefit year from an employer with respect to~~  
4 ~~employment during the base period is the amount obtained by~~  
5 ~~multiplying the weekly benefit rate with respect to that employment~~  
6 ~~by 3/4 of the number of credit weeks earned in the employment. For~~  
7 ~~the purpose of this subsection and section 20(e), if the resultant~~  
8 ~~product is not an even multiple of 1/2 the weekly benefit rate, the~~  
9 ~~product shall be raised to an amount equal to the next higher~~  
10 ~~multiple of 1/2 the weekly benefit rate, and, for an individual who~~  
11 ~~was employed by only 1 employer in the individual's base period and~~  
12 ~~earned 34 credit weeks with that employer, the product shall be~~  
13 ~~raised to the next higher multiple of the weekly benefit rate. The~~  
14 ~~maximum amount of benefits payable to an individual within a~~  
15 ~~benefit year, with respect to employment by an employer, shall not~~  
16 ~~exceed 26 times the weekly benefit rate with respect to that~~  
17 ~~employment. The maximum amount of benefits payable to an individual~~  
18 ~~within a benefit year shall not exceed the amount to which the~~  
19 ~~individual would be entitled for 26 weeks of unemployment in which~~  
20 ~~remuneration was not earned or received. The limitation of total~~  
21 ~~benefits set forth in this subsection does not apply to claimants~~  
22 ~~declared eligible for training benefits in accordance with~~  
23 ~~subsection (g).~~ For benefit years beginning on or after October 1,  
24 2000, and subject to subsection (f) and this subsection, the  
25 maximum benefit amount payable to an individual in a benefit year  
26 for purposes of this section and section 20(d) is the number of  
27 weeks of benefits payable to an individual during the benefit year,

1 multiplied by the individual's weekly benefit rate. The number of  
2 weeks of benefits payable to an individual shall be calculated by  
3 taking 43% of the individual's base period wages and dividing the  
4 result by the individual's weekly benefit rate. If the quotient is  
5 not a whole or half number, the result shall be rounded down to the  
6 nearest half number. However, ~~for each eligible individual filing~~  
7 ~~an initial claim before January 15, 2012,~~ not more than 26 weeks of  
8 benefits or less than 14 weeks of benefits shall be payable to an  
9 individual in a benefit year. ~~For each eligible individual filing~~  
10 ~~an initial claim on or after January 15, 2012, not more than 20~~  
11 ~~weeks of benefits or less than 14 weeks of benefits shall be~~  
12 ~~payable to an individual in a benefit year.~~ The limitation of total  
13 benefits set forth in this subsection does not apply to claimants  
14 declared eligible for training benefits in accordance with  
15 subsection (g).

16 (e) When a claimant dies or is judicially declared insane or  
17 mentally incompetent, unemployment compensation benefits accrued  
18 and payable to that person for weeks of unemployment before death,  
19 insanity, or incompetency, but not paid, shall become due and  
20 payable to the person who is the legal heir or guardian of the  
21 claimant or to any other person found by the ~~commission~~  
22 **UNEMPLOYMENT AGENCY** to be equitably entitled to the benefits by  
23 reason of having incurred expense in behalf of the claimant for the  
24 claimant's burial or other necessary expenses.

25 (f)(1) For benefit years beginning before October 1, 2000, and  
26 notwithstanding any inconsistent provisions of this act, the weekly  
27 benefit rate of each individual who is receiving or will receive a

1 "retirement benefit", as defined in subdivision (4), shall be  
2 adjusted as provided in subparagraphs (a), (b), and (c). However,  
3 an individual's extended benefit account and an individual's weekly  
4 extended benefit rate under section 64 shall be established without  
5 reduction under this subsection unless subdivision (5) is in  
6 effect. Except as otherwise provided in this subsection, all other  
7 provisions of this act continue to apply in connection with the  
8 benefit claims of those retired persons.

9 (a) If and to the extent that unemployment benefits payable  
10 under this act would be chargeable to an employer who has  
11 contributed to the financing of a retirement plan under which the  
12 claimant is receiving or will receive a retirement benefit yielding  
13 a pro rata weekly amount equal to or larger than the claimant's  
14 weekly benefit rate as otherwise established under this act, the  
15 claimant shall not receive unemployment benefits that would be  
16 chargeable to the employer under this act.

17 (b) If and to the extent that unemployment benefits payable  
18 under this act would be chargeable to an employer who has  
19 contributed to the financing of a retirement plan under which the  
20 claimant is receiving or will receive a retirement benefit yielding  
21 a pro rata weekly amount less than the claimant's weekly benefit  
22 rate as otherwise established under this act, then the weekly  
23 benefit rate otherwise payable to the claimant and chargeable to  
24 the employer under this act shall be reduced by an amount equal to  
25 the pro rata weekly amount, adjusted to the next lower multiple of  
26 \$1.00, which the claimant is receiving or will receive as a  
27 retirement benefit.

1 (c) If the unemployment benefit payable under this act would  
2 be chargeable to an employer who has not contributed to the  
3 financing of a retirement plan under which the claimant is  
4 receiving or will receive a retirement benefit, then the weekly  
5 benefit rate of the claimant as otherwise established under this  
6 act shall not be reduced due to receipt of a retirement benefit.

7 (d) If the unemployment benefit payable under this act is  
8 computed on the basis of multiemployer credit weeks and a portion  
9 of the benefit is allocable under section 20(e) to an employer who  
10 has contributed to the financing of a retirement plan under which  
11 the claimant is receiving or will receive a retirement benefit, the  
12 adjustments required by subparagraph (a) or (b) apply only to that  
13 portion of the weekly benefit rate that would otherwise be  
14 allocable and chargeable to the employer.

15 (2) If an individual's weekly benefit rate under this act was  
16 established before the period for which the individual first  
17 receives a retirement benefit, any benefits received after a  
18 retirement benefit becomes payable shall be determined in  
19 accordance with the formula stated in this subsection.

20 (3) When necessary to ~~assure~~**ENSURE** prompt payment of  
21 benefits, the ~~commission~~**UNEMPLOYMENT AGENCY** shall determine the  
22 pro rata weekly amount yielded by an individual's retirement  
23 benefit based on the best information currently available to it. In  
24 the absence of fraud, a determination shall not be reconsidered  
25 unless it is established that the individual's actual retirement  
26 benefit in fact differs from the amount determined by \$2.00 or more  
27 per week. The reconsideration shall apply only to benefits as may

1 be claimed after the information on which the reconsideration is  
2 based was received by the ~~commission~~-**UNEMPLOYMENT AGENCY**.

3 (4) (a) As used in this subsection, "retirement benefit" means  
4 a benefit, annuity, or pension of any type or that part thereof  
5 that is described in subparagraph (b) that is both:

6 (i) Provided as an incident of employment under an established  
7 retirement plan, policy, or agreement, including federal social  
8 security if subdivision (5) is in effect.

9 (ii) Payable to an individual because the individual has  
10 qualified on the basis of attained age, length of service, or  
11 disability, whether or not the individual retired or was retired  
12 from employment. Amounts paid to individuals in the course of  
13 liquidation of a private pension or retirement fund because of  
14 termination of the business or of a plant or department of the  
15 business of the employer involved are not retirement benefits.

16 (b) If a benefit as described in subparagraph (a) is payable  
17 or paid to the individual under a plan to which the individual has  
18 contributed:

19 (i) Less than 1/2 of the cost of the benefit, then only 1/2 of  
20 the benefit is treated as a retirement benefit.

21 (ii) One-half or more of the cost of the benefit, then none of  
22 the benefit is treated as a retirement benefit.

23 (c) The burden of establishing the extent of an individual's  
24 contribution to the cost of his or her retirement benefit for the  
25 purpose of subparagraph (b) is upon the employer who has  
26 contributed to the plan under which a benefit is provided.

27 (5) Notwithstanding any other provision of this subsection,

1 for any week that begins after March 31, 1980, and with respect to  
2 which an individual is receiving a governmental or other pension  
3 and claiming unemployment compensation, the weekly benefit amount  
4 payable to the individual for those weeks shall be reduced, but not  
5 below zero, by the entire prorated weekly amount of any  
6 governmental or other pension, retirement or retired pay, annuity,  
7 or any other similar payment that is based on any previous work of  
8 the individual. This reduction shall be made only if it is required  
9 as a condition for full tax credit against the tax imposed by the  
10 federal unemployment tax act, 26 USC 3301 to 3311.

11 (6) For benefit years beginning on or after October 1, 2000,  
12 notwithstanding any inconsistent provisions of this act, the weekly  
13 benefit rate of each individual who is receiving or will receive a  
14 retirement benefit, as defined in subdivision (4), shall be  
15 adjusted as provided in subparagraphs (a), (b), and (c). However,  
16 an individual's extended benefit account and an individual's weekly  
17 extended benefit rate under section 64 shall be established without  
18 reduction under this subsection, unless subdivision (5) is in  
19 effect. Except as otherwise provided in this subsection, all the  
20 other provisions of this act apply to the benefit claims of those  
21 retired persons. However, if the reduction would impair the full  
22 tax credit against the tax imposed by the federal unemployment tax  
23 act, 26 USC 3301 to 3311, unemployment benefits shall not be  
24 reduced as provided in subparagraphs (a), (b), and (c) for receipt  
25 of any governmental or other pension, retirement or retired pay,  
26 annuity, or other similar payment that was not includable in the  
27 gross income of the individual for the taxable year in which it was

1 received because it was a part of a rollover distribution.

2 (a) If any base period or chargeable employer has contributed  
3 to the financing of a retirement plan under which the claimant is  
4 receiving or will receive a retirement benefit yielding a pro rata  
5 weekly amount equal to or larger than the claimant's weekly benefit  
6 rate as otherwise established under this act, the claimant shall  
7 not receive unemployment benefits.

8 (b) If any base period employer or chargeable employer has  
9 contributed to the financing of a retirement plan under which the  
10 claimant is receiving or will receive a retirement benefit yielding  
11 a pro rata weekly amount less than the claimant's weekly benefit  
12 rate as otherwise established under this act, then the weekly  
13 benefit rate otherwise payable to the claimant shall be reduced by  
14 an amount equal to the pro rata weekly amount, adjusted to the next  
15 lower multiple of \$1.00, which the claimant is receiving or will  
16 receive as a retirement benefit.

17 (c) If no base period or separating employer has contributed  
18 to the financing of a retirement plan under which the claimant is  
19 receiving or will receive a retirement benefit, then the weekly  
20 benefit rate of the claimant as otherwise established under this  
21 act shall not be reduced due to receipt of a retirement benefit.

22 (g) Notwithstanding any other provision of this act, an  
23 individual pursuing vocational training or retraining pursuant to  
24 section 28(2) who has exhausted all benefits available under  
25 subsection (d) may be paid for each week of approved vocational  
26 training pursued beyond the date of exhaustion a benefit amount in  
27 accordance with subsection (c), but not in excess of the

1 individual's most recent weekly benefit rate. However, an  
2 individual shall not be paid training benefits totaling more than  
3 18 times the individual's most recent weekly benefit rate. The  
4 expiration or termination of a benefit year shall not stop or  
5 interrupt payment of training benefits if the training for which  
6 the benefits were granted began before expiration or termination of  
7 the benefit year.

8 (h) A payment of accrued unemployment benefits shall not be  
9 made to an eligible individual or in behalf of that individual as  
10 provided in subsection (e) more than 6 years after the ending date  
11 of the benefit year covering the payment or 2 calendar years after  
12 the calendar year in which there is final disposition of a  
13 contested case, whichever is later.

14 (i) Benefits based on service in employment described in  
15 section 42(8), (9), and (10) are payable in the same amount, on the  
16 same terms, and subject to the same conditions as compensation  
17 payable on the basis of other service subject to this act, except  
18 that:

19 (1) With respect to service performed in an instructional,  
20 research, or principal administrative capacity for an institution  
21 of higher education as defined in section 53(2), or for an  
22 educational institution other than an institution of higher  
23 education as defined in section 53(3), benefits shall not be paid  
24 to an individual based on those services for any week of  
25 unemployment beginning after December 31, 1977 that commences  
26 during the period between 2 successive academic years or during a  
27 similar period between 2 regular terms, whether or not successive,



1 or during a period of paid sabbatical leave provided for in the  
2 individual's contract, to an individual if the individual performs  
3 the service in the first of the academic years or terms and if  
4 there is a contract or a reasonable assurance that the individual  
5 will perform service in an instructional, research, or principal  
6 administrative capacity for an institution of higher education or  
7 an educational institution other than an institution of higher  
8 education in the second of the academic years or terms, whether or  
9 not the terms are successive.

10 (2) With respect to service performed in other than an  
11 instructional, research, or principal administrative capacity for  
12 an institution of higher education as defined in section 53(2) or  
13 for an educational institution other than an institution of higher  
14 education as defined in section 53(3), benefits shall not be paid  
15 based on those services for any week of unemployment beginning  
16 after December 31, 1977 that commences during the period between 2  
17 successive academic years or terms to any individual if that  
18 individual performs the service in the first of the academic years  
19 or terms and if there is a reasonable assurance that the individual  
20 will perform the service for an institution of higher education or  
21 an educational institution other than an institution of higher  
22 education in the second of the academic years or terms.

23 (3) With respect to any service described in subdivision (1)  
24 or (2), benefits shall not be paid to an individual based upon  
25 service for any week of unemployment that commences during an  
26 established and customary vacation period or holiday recess if the  
27 individual performs the service in the period immediately before

1 the vacation period or holiday recess and there is a contract or  
2 reasonable assurance that the individual will perform the service  
3 in the period immediately following the vacation period or holiday  
4 recess.

5 (4) If benefits are denied to an individual for any week  
6 solely as a result of subdivision (2) and the individual was not  
7 offered an opportunity to perform in the second academic year or  
8 term the service for which reasonable assurance had been given, the  
9 individual is entitled to a retroactive payment of benefits for  
10 each week for which the individual had previously filed a timely  
11 claim for benefits. An individual entitled to benefits under this  
12 subdivision may apply for those benefits by mail in accordance with  
13 R 421.210 of the Michigan ~~administrative code~~ **ADMINISTRATIVE CODE**  
14 as promulgated by the ~~commission~~ **UNEMPLOYMENT AGENCY**.

15 (5) Benefits based upon services in other than an  
16 instructional, research, or principal administrative capacity for  
17 an institution of higher education shall not be denied for any week  
18 of unemployment commencing during the period between 2 successive  
19 academic years or terms solely because the individual had performed  
20 the service in the first of the academic years or terms and there  
21 is reasonable assurance that the individual will perform the  
22 service for an institution of higher education or an educational  
23 institution other than an institution of higher education in the  
24 second of the academic years or terms, unless a denial is required  
25 as a condition for full tax credit against the tax imposed by the  
26 federal unemployment tax act, 26 USC 3301 to 3311.

27 (6) For benefit years established before October 1, 2000, and

1 notwithstanding subdivisions (1), (2), and (3), the denial of  
2 benefits does not prevent an individual from completing  
3 requalifying weeks in accordance with section 29(3) nor does the  
4 denial prevent an individual from receiving benefits based on  
5 service with an employer other than an educational institution for  
6 any week of unemployment occurring between academic years or terms,  
7 whether or not successive, or during an established and customary  
8 vacation period or holiday recess, even though the employer is not  
9 the most recent chargeable employer in the individual's base  
10 period. However, in that case section 20(b) applies to the sequence  
11 of benefit charging, except for the employment with the educational  
12 institution, and section ~~50(b)~~**50B** applies to the calculation of  
13 credit weeks. When a denial of benefits under subdivision (1) no  
14 longer applies, benefits shall be charged in accordance with the  
15 normal sequence of charging as provided in section 20(b).

16 (7) For benefit years beginning on or after October 1, 2000,  
17 and notwithstanding subdivisions (1), (2), and (3), the denial of  
18 benefits shall not prevent an individual from completing  
19 requalifying weeks in accordance with section 29(3) nor shall the  
20 denial prevent an individual from receiving benefits based on  
21 service with another base period employer other than an educational  
22 institution for any week of unemployment occurring between academic  
23 years or terms, whether or not successive, or during an established  
24 and customary vacation period or holiday recess. However, when  
25 benefits are paid based on service with 1 or more base period  
26 employers other than an educational institution, the individual's  
27 weekly benefit rate shall be calculated in accordance with

1 subsection (b)(1) but during the denial period the individual's  
2 weekly benefit payment shall be reduced by the portion of the  
3 payment attributable to base period wages paid by an educational  
4 institution and the account or experience account of the  
5 educational institution shall not be charged for benefits payable  
6 to the individual. When a denial of benefits under subdivision (1)  
7 is no longer applicable, benefits shall be paid and charged on the  
8 basis of base period wages with each of the base period employers  
9 including the educational institution.

10 (8) For the purposes of this subsection, "academic year" means  
11 that period, as defined by the educational institution, when  
12 classes are in session for that length of time required for  
13 students to receive sufficient instruction or earn sufficient  
14 credit to complete academic requirements for a particular grade  
15 level or to complete instruction in a noncredit course.

16 (9) In accordance with subdivisions (1), (2), and (3),  
17 benefits for any week of unemployment shall be denied to an  
18 individual who performed services described in subdivision (1),  
19 (2), or (3) in an educational institution while in the employ of an  
20 educational service agency. For the purpose of this subdivision,  
21 "educational service agency" means a governmental agency or  
22 governmental entity that is established and operated exclusively  
23 for the purpose of providing the services to 1 or more educational  
24 institutions.

25 (j) Benefits shall not be paid to an individual on the basis  
26 of any base period services, substantially all of which consist of  
27 participating in sports or athletic events or training or preparing

1 to participate, for a week that commences during the period between  
2 successive sport seasons or similar periods if the individual  
3 performed the services in the first of the seasons or similar  
4 periods and there is a reasonable assurance that the individual  
5 will perform the services in the later of the seasons or similar  
6 periods.

7 (k)(1) Benefits are not payable on the basis of services  
8 performed by an alien unless the alien is an individual who was  
9 lawfully admitted for permanent residence at the time the services  
10 were performed, was lawfully present for the purpose of performing  
11 the services, or was permanently residing in the United States  
12 under color of law at the time the services were performed,  
13 including an alien who was lawfully present in the United States  
14 under section 212(d)(5) of the immigration and nationality act, 8  
15 USC 1182.

16 (2) Any data or information required of individuals applying  
17 for benefits to determine whether benefits are payable because of  
18 their alien status are uniformly required from all applicants for  
19 benefits.

20 (3) If an individual's application for benefits would  
21 otherwise be approved, a determination that benefits to that  
22 individual are not payable because of the individual's alien status  
23 shall not be made except upon a preponderance of the evidence.

24 (m)(1) An individual filing a new claim for unemployment  
25 compensation under this act, at the time of filing the claim, shall  
26 disclose whether the individual owes child support obligations as  
27 defined in this subsection. If an individual discloses that he or

1 she owes child support obligations and is determined to be eligible  
2 for unemployment compensation, the unemployment agency shall notify  
3 the state or local child support enforcement agency enforcing the  
4 obligation that the individual has been determined to be eligible  
5 for unemployment compensation.

6 (2) Notwithstanding section 30, the unemployment agency shall  
7 deduct and withhold from any unemployment compensation payable to  
8 an individual who owes child support obligations by using whichever  
9 of the following methods results in the greatest amount:

10 (a) The amount, if any, specified by the individual to be  
11 deducted and withheld under this subdivision.

12 (b) The amount, if any, determined pursuant to an agreement  
13 submitted to the ~~commission~~**UNEMPLOYMENT AGENCY** under 42 USC  
14 654(19)(b)(i), by the state or local child support enforcement  
15 agency.

16 (c) Any amount otherwise required to be deducted and withheld  
17 from unemployment compensation by legal process, as that term is  
18 defined in 42 USC 659(i)(5), properly served upon the  
19 ~~commission~~**UNEMPLOYMENT AGENCY**.

20 (3) The amount of unemployment compensation subject to  
21 deduction under subdivision (2) is that portion that remains  
22 payable to the individual after application of the recoupment  
23 provisions of section 62(a) and the reduction provisions of  
24 subsections (c) and (f).

25 (4) Any amount deducted and withheld under subdivision (2)  
26 shall be paid by the ~~commission~~**UNEMPLOYMENT AGENCY** to the  
27 appropriate state or local child support enforcement agency.

1           (5) Any amount deducted and withheld under subdivision (2)  
2 shall be treated for all purposes as if it were paid to the  
3 individual as unemployment compensation and paid by the individual  
4 to the state or local child support enforcement agency in  
5 satisfaction of the individual's child support obligations.

6           (6) Provisions concerning deductions under this subsection  
7 apply only if the state or local child support enforcement agency  
8 agrees in writing to reimburse and does reimburse the ~~commission~~  
9 **UNEMPLOYMENT AGENCY** for the administrative costs incurred by the  
10 ~~commission~~**UNEMPLOYMENT AGENCY** under this subsection that are  
11 attributable to child support obligations being enforced by the  
12 state or local child support enforcement agency. The administrative  
13 costs incurred shall be determined by the ~~commission~~**UNEMPLOYMENT**  
14 **AGENCY**. The ~~commission~~**UNEMPLOYMENT AGENCY**, in its discretion, may  
15 require payment of administrative costs in advance.

16           (7) As used in this subsection:

17           (a) "Unemployment compensation", for purposes of subdivisions  
18 (1) to (5), means any compensation payable under this act,  
19 including amounts payable by the ~~commission~~**UNEMPLOYMENT AGENCY**  
20 pursuant to an agreement under any federal law providing for  
21 compensation, assistance, or allowances with respect to  
22 unemployment.

23           (b) "Child support obligations" includes only obligations that  
24 are being enforced pursuant to a plan described in 42 USC 654 that  
25 has been approved by the secretary of health and human services  
26 under 42 USC 651 to 669b.

27           (c) "State or local child support enforcement agency" means

1 any agency of this state or a political subdivision of this state  
2 operating pursuant to a plan described in subparagraph (b).

3 (n) Subsection (i)(2) applies to services performed by school  
4 bus drivers employed by a private contributing employer holding a  
5 contractual relationship with an educational institution, but only  
6 if at least 75% of the individual's base period wages with that  
7 employer are attributable to services performed as a school bus  
8 driver. Subsection (i)(1) and (2) but not subsection (i)(3) applies  
9 to other services described in those subdivisions that are  
10 performed by any employees under an employer's contract with an  
11 educational institution or an educational service agency.

12 (o)(1) For weeks of unemployment beginning after July 1, 1996,  
13 unemployment benefits based on services by a seasonal worker  
14 performed in seasonal employment are payable only for weeks of  
15 unemployment that occur during the normal seasonal work period.  
16 Benefits shall not be paid based on services performed in seasonal  
17 employment for any week of unemployment beginning after March 28,  
18 1996 that begins during the period between 2 successive normal  
19 seasonal work periods to any individual if that individual performs  
20 the service in the first of the normal seasonal work periods and if  
21 there is a reasonable assurance that the individual will perform  
22 the service for a seasonal employer in the second of the normal  
23 seasonal work periods. If benefits are denied to an individual for  
24 any week solely as a result of this subsection and the individual  
25 is not offered an opportunity to perform in the second normal  
26 seasonal work period for which reasonable assurance of employment  
27 had been given, the individual is entitled to a retroactive payment



1 of benefits under this subsection for each week that the individual  
2 previously filed a timely claim for benefits. An individual may  
3 apply for any retroactive benefits under this subsection in  
4 accordance with R 421.210 of the Michigan ~~administrative~~  
5 ~~code~~. **ADMINISTRATIVE CODE.**

6 (2) Not less than 20 days before the estimated beginning date  
7 of a normal seasonal work period, an employer may apply to the  
8 ~~commission~~ **UNEMPLOYMENT AGENCY** in writing for designation as a  
9 seasonal employer. At the time of application, the employer shall  
10 conspicuously display a copy of the application on the employer's  
11 premises. Within 90 days after receipt of the application, the  
12 ~~commission~~ **UNEMPLOYMENT AGENCY** shall determine if the employer is a  
13 seasonal employer. A determination or redetermination of the  
14 ~~commission~~ **UNEMPLOYMENT AGENCY** concerning the status of an employer  
15 as a seasonal employer, or a decision of an administrative law  
16 judge, the Michigan compensation appellate commission, or the  
17 courts of this state concerning the status of an employer as a  
18 seasonal employer, which has become final, together with the record  
19 thereof, may be introduced in any proceeding involving a claim for  
20 benefits, and the facts found and decision issued in the  
21 determination, redetermination, or decision shall be conclusive  
22 unless substantial evidence to the contrary is introduced by or on  
23 behalf of the claimant.

24 (3) If the employer is determined to be a seasonal employer,  
25 the employer shall conspicuously display on its premises a notice  
26 of the determination and the beginning and ending dates of the  
27 employer's normal seasonal work periods. The notice shall be

1 furnished by the ~~commission~~—**UNEMPLOYMENT AGENCY**. The notice shall  
2 additionally specify that an employee must timely apply for  
3 unemployment benefits at the end of a first seasonal work period to  
4 preserve his or her right to receive retroactive unemployment  
5 benefits if he or she is not reemployed by the seasonal employer in  
6 the second of the normal seasonal work periods.

7 (4) The ~~commission~~—**UNEMPLOYMENT AGENCY** may issue a  
8 determination terminating an employer's status as a seasonal  
9 employer on the ~~commission's~~—**UNEMPLOYMENT AGENCY'S** own motion for  
10 good cause, or upon the written request of the employer. A  
11 termination determination under this subdivision terminates an  
12 employer's status as a seasonal employer, and becomes effective on  
13 the beginning date of the normal seasonal work period that would  
14 have immediately followed the date the ~~commission~~—**UNEMPLOYMENT**  
15 **AGENCY** issues the determination. A determination under this  
16 subdivision is subject to review in the same manner and to the same  
17 extent as any other determination under this act.

18 (5) An employer whose status as a seasonal employer is  
19 terminated under subdivision (4) may not reapply for a seasonal  
20 employer status determination until after a regularly recurring  
21 normal seasonal work period has begun and ended.

22 (6) If a seasonal employer informs an employee who received  
23 assurance of being rehired that, despite the assurance, the  
24 employee will not be rehired at the beginning of the employer's  
25 next normal seasonal work period, this subsection does not prevent  
26 the employee from receiving unemployment benefits in the same  
27 manner and to the same extent he or she would receive benefits

1 under this act from an employer who has not been determined to be a  
2 seasonal employer.

3 (7) A successor of a seasonal employer is considered to be a  
4 seasonal employer unless the successor provides the ~~commission,~~  
5 **UNEMPLOYMENT AGENCY**, within 120 days after the transfer, with a  
6 written request for termination of its status as a seasonal  
7 employer in accordance with subdivision (4).

8 (8) At the time an employee is hired by a seasonal employer,  
9 the employer shall notify the employee in writing if the employee  
10 will be a seasonal worker. The employer shall provide the worker  
11 with written notice of any subsequent change in the employee's  
12 status as a seasonal worker. If an employee of a seasonal employer  
13 is denied benefits because that employee is a seasonal worker, the  
14 employee may contest that designation in accordance with section  
15 32a.

16 (9) As used in this subsection:

17 (a) "Construction industry" means the work activity designated  
18 in sector group 23 - construction of the North American  
19 classification system - United States ~~office of management and~~  
20 ~~budget,~~ **OFFICE OF MANAGEMENT AND BUDGET**, 1997 edition.

21 (b) "Normal seasonal work period" means that period or those  
22 periods of time determined under rules promulgated by the  
23 ~~commission~~ **UNEMPLOYMENT AGENCY** during which an individual is  
24 employed in seasonal employment.

25 (c) "Seasonal employment" means the employment of 1 or more  
26 individuals primarily hired to perform services during regularly  
27 recurring periods of 26 weeks or less in any 52-week period other

1 than services in the construction industry.

2 (d) "Seasonal employer" means an employer, other than an  
3 employer in the construction industry, who applies to the  
4 ~~commission~~**UNEMPLOYMENT AGENCY** for designation as a seasonal  
5 employer and who the ~~commission~~**UNEMPLOYMENT AGENCY** determines is  
6 an employer whose operations and business require employees engaged  
7 in seasonal employment. A seasonal employer designation under this  
8 act need not correspond to a category assigned under the North  
9 American classification system – United States ~~office of management~~  
10 ~~and budget~~**OFFICE OF MANAGEMENT AND BUDGET**.

11 (e) "Seasonal worker" means a worker who has been paid wages  
12 by a seasonal employer for work performed only during the normal  
13 seasonal work period.

14 (10) This subsection does not apply if the United States  
15 ~~department of labor~~**DEPARTMENT OF LABOR** finds it to be contrary to  
16 the federal unemployment tax act, 26 USC 3301 to 3311, or the  
17 social security act, chapter 531, 49 ~~Stat.~~**STAT** 620, and if  
18 conformity with the federal law is required as a condition for full  
19 tax credit against the tax imposed under the federal unemployment  
20 tax act, 26 USC 3301 to 3311, or as a condition for receipt by the  
21 commission of federal administrative grant funds under the social  
22 security act, chapter 531, 49 ~~Stat.~~**STAT** 620.

23 (p) Benefits shall not be paid to an individual based upon his  
24 or her services as a school crossing guard for any week of  
25 unemployment that begins between 2 successive academic years or  
26 terms, if that individual performs the services of a school  
27 crossing guard in the first of the academic years or terms and has

1 a reasonable assurance that he or she will perform those services  
2 in the second of the academic years or terms.

3 Enacting section 1. This amendatory act takes effect 90 days  
4 after the date it is enacted into law.